

Aviva Stahl v. Federal Bureau of Prisons, and Department of Justice

Case No. 19-cv-4142 (BMC) (E.D.N.Y.)

Stahl Declaration

Exhibit A



Keegan Stephan <stephan@law.cardozo.yu.edu>

Fwd: FOIA #2018-03868

2 messages

Aviva Stahl <aviva.stahl@gmail.com>
To: Keegan Stephan <stephan@law.cardozo.yu.edu>

Mon, Apr 1, 2019 at 4:45 PM

----- Forwarded message -----

From: **Aviva Stahl** <aviva.stahl@gmail.com>
Date: Thu, Apr 5, 2018 at 10:20 AM
Subject: Re: FOIA #2018-03868
To: NCRO/FOIA~ <NCRO/FOIA~@bop.gov>

I appreciate your prompt response. I'll review this note and let you know if I have any additional queries. Is it possible for me to receive records as they are collected from the field, instead of all at once? Thanks again.

On Thu, Apr 5, 2018 at 10:15 AM, NCRO/FOIA~ <NCRO/FOIA~@bop.gov> wrote:

We have reviewed both requests. While yes, you have described them differently, in the BOP the records are considered the same. In your first request (2018-02917) one of the things you requested was videotapes of involuntary medical treatment records from January 1, 2002 to December 31, 2015 and in this new request you asked for videos that depict the cell extractions as well as the force-feedings for two specific dates. In the BOP these are considered the same and since the dates you are requesting were included in the first request date range, that is why they are considered duplicative.

Regarding your questions regarding how long the BOP keeps videos of the force feedings/forced cell extractions on file, please be advised the Freedom of Information Act (FOIA) does not require federal agencies to answer questions or create records in response to a FOIA request, but rather is limited to requiring agencies to provide access to reasonably described, nonexempt records.

Regarding the estimation of how long it might take to fulfill request #2018-02917, processing expedited requests may take up to six months. Once responsive documents have been collected from the field, we will process your request in the order that it was received.

>>> Aviva Stahl <aviva.stahl@gmail.com> 4/5/2018 6:40 AM >>>
Hello there,

I'd like more information on why this request is being considered a duplicate. I did indeed request copies of force-feeding videos on file for Mr. Salameh in my previous FOIA request, 2018-02917. In this request, 2018-03868, I requested videos for specific force-feedings, as well as any videos from those dates depicting force team cell extractions in order to bring Mr. Salameh to the treatment room. I submitted additional releases from Mr. Salameh to ensure it was understood that he had given me permission to access these videos.

It wasn't my understanding that this force team extraction videos would be included in Mr. Salameh's medical file, nor was I sure that the videos of the force-feedings themselves would be considered part of his medical file - hence why I have submitted two requests. Can you please clarify the BOP's position on this, and also let me know - if you are able - for how long the BOP keeps videos of the force feedings/forced cell extractions on file?

I'd also greatly appreciate if you could give me an estimation of how long it might take to fulfill request 2018-02917.

Thank you very much.

Regards,
Aviva Stahl

On Tue, Apr 3, 2018 at 2:46 PM, <NCRO/FOIA~@bop.gov> wrote:
Request number 2018-03868 - Please see the attachment.

--
Follow me on Twitter @stahlidarity.

Check out my writing portfolio at stahlidarity.com, and/or get regular updates from me about my work by signing up [here](#).

--
Follow me on Twitter @stahlidarity.

Check out my writing portfolio at stahlidarity.com, and/or get regular updates from me about my work by signing up [here](#).

--
Follow me on Twitter @stahlidarity.

Check out my writing portfolio at stahlidarity.com, and/or get regular updates from me about my work by signing up [here](#).

Aviva Stahl <aviva.stahl@gmail.com>
To: Keegan Stephan <stephan@law.cardozo.yu.edu>

Mon, Apr 1, 2019 at 4:45 PM

----- Forwarded message -----

From: **Aviva Stahl** <aviva.stahl@gmail.com>
Date: Thu, Apr 26, 2018 at 4:30 PM
Subject: Re: FOIA #2018-03868
To: NCRO/FOIA~ <NCRO/FOIA~@bop.gov>

Okay, thanks.

On Thu, Apr 26, 2018 at 4:29 PM, NCRO/FOIA~ <NCRO/FOIA~@bop.gov> wrote:

Please see the previous response on April 3 & April 5, 2018. This case is duplicate to 2018-02917, so the 2018-03868 has been administratively closed.

>>> Aviva Stahl <aviva.stahl@gmail.com> 4/26/2018 3:04 PM >>>

Hello,

I hope this lovely day finds you well. I'm writing to check in about the FOIA request and see how the processing is going. Is it possible to have records released to me as they are located?

Thank you in advance for your time and consideration.

Warm regards,
Aviva Stahl

--
Follow me on Twitter @stahlidarity.

Check out my writing portfolio at stahlidarity.com, and/or get regular updates from me about my work by signing up [here](#).

--
Follow me on Twitter @stahlidarity.

Check out my writing portfolio at stahlidarity.com, and/or get regular updates from me about my work by signing up [here](#).

[Quoted text hidden]



**U.S. Department of Justice
Federal Bureau of Prisons**

Office of the Regional Counsel

*North Central Regional Office
400 State Ave., Tower II, 8th Floor
Kansas City, KS 66101*

April 3, 2018

Aviva Stahl
PO Box 205-329
Brooklyn, NY 11220

Request Number: 2018-03868

Dear Ms. Stahl;

This responds to your Freedom of Information (FOIA) Request referred to above. A copy of the first page of your request is attached. By this letter, the Federal Bureau of Prisons informed you your FOIA request was received and assigned Request Number 2018-03868. However, we subsequently learned your request file was a duplicate of Request Number 2018-02917, which is currently being processed. In light of these circumstances, I am administratively closing Request Number 2018-03868.

If you have questions about this response please feel free to contact the undersigned, this office, or the Federal Bureau of Prisons' (BOP) FOIA Public Liaison, Mr. C. Darnell Stroble at 202-616-7750, 320 First Street NW, Suite 936, Washington DC 20534, or ogc_efoia@bop.gov.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information, Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account at:

<https://foiaonline.regulations.gov/foia/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in blue ink, appearing to read "R. Winter".

for
Richard M. Winter
Regional Counsel

NCR/FLP

Director, Federal Bureau of Prisons
FOIA/PA Section
Office of General Counsel, Room 924
Federal Bureau of Prisons
320 First Street, N.W.
Washington, DC 20534

Aviva Stahl
PO Box 205-329
Brooklyn, NY 11220

Received

MAR 28 2018

FOIA/PA Section
Federal Bureau of Prisons

March 23, 2018

Re: Freedom of Information Act Request

To Whom It May Concern:

In this Freedom of Information request, I am asking for copies of specific video recordings made by BOP staff of Mohammad Salameh (34338-054) currently held at USP Florence but previously held at Florence ADX. This request is part of a larger investigation into prisoners who have gone on hunger strike while incarcerated in Bureau of Prisons custody.

I am independent investigative journalist making this request as a representative of the news media. I have written for prominent national outlets including *the Guardian*, *the Nation*, *Harper's Magazine*, *Rolling Stone*, *VICE* and many others. You can find links to my work on my website, stahlidarity.com. As a member of the news media, I request a waiver of all fees for this request. My primary and sole purpose in submitting this records request, is to enrich the public's understanding of the governments operations and activities, specifically the BOP's response to hunger strikes within inside federal facilities. I have no personal or commercial interest in these records.

As a member of the news media, I also request expedited processing for this request, as permitted under the federal statute. This story pertains to the issue of hunger striking within the federal supermax prison, Florence ADX. When the hunger strikes occurred at the military detention facility at Guantanamo Bay, they received an immense amount of press attention - there was certainly "widespread and exceptional media interest in which there exist possible questions about the government's integrity that affect public confidence." As such, it seems clear to me that a similar "widespread and exceptional media interest...." applies to this story, which would qualify it for expedited processing. Moreover, I would maintain that these video recordings - which I am specifically requesting to further my story on hunger strikes - also qualify another exemption, eg. "an urgency to inform the public about an actual or alleged Federal Government activity, if made by a person who is primarily engaged in disseminating information." I am requesting these records as a journalist writing about an alleged and presumably ongoing Federal Government activity - namely, the very serious human rights issues at play in the way the BOP responds to hunger strikes. To the best of my knowledge, the reasons for expedited are true and correct.